

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

NO PROTEST RECEIVED  
Release copies to District  
Date [REDACTED]  
Signature [REDACTED]

Date: FEB 08 2000

Contact Person: [REDACTED]

ID Number: [REDACTED]

Telephone Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(9) of the Internal Revenue Code.

You are a trust formed on [REDACTED] for the purpose of providing benefits to the employees of the employer members of [REDACTED].

Substantially all of your present benefits consist of providing medical insurance. The information shows that the employers are located nationwide.

Section 501(c)(9) of the Code describes a voluntary employees' beneficiary association (VEBA) providing for the payment of life, sick, accident or other benefits to its members or their dependents or designated beneficiaries, and in which no part of its net earning inures (other than through such payments) to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-2(a)(1) of the Income Tax Regulations provides that the membership of an organization described in section 501(c)(9) must consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is defined by reference to objective standards that constitute an employment-related bond among such individuals. Typically, those eligible for membership in an organization described in section 501(c)(9) are defined by reference to a common employer, affiliated employers, or membership in a given labor union. In addition, employees of one or more employers engaged in the same line of business in the same geographic locale will be considered to share an employment-related bond.

Based on the information submitted, we conclude that you are not a voluntary employees' beneficiary association as that term is used in section 501(c)(9) of the Code.

Your adopting employers are not within the same "geographic locale" as we have interpreted that term in section 1.501(c)(9)-2(a)(1) of the regulations. In addition, we see no other basis upon which the participating employees can be said to share an employment-related common bond within the meaning of that section.

The preamble to the final regulations under section 501(c)(9) of the Code, published as T.D. 7750, 46 Fed. Reg. (1981), expressed two concerns regarding the need for the "geographic locale"

restriction. The first concern was that without such a restriction section 501(c)(9) might be used as a tax-exempt vehicle for offering insurance products to unrelated individuals scattered throughout the country, undermining the provisions of the Internal Revenue Code prescribing the income tax treatment of insurance companies. The second concern was that organizations such as a national trade association or business league exempt under section 501(c)(6) could circumvent the unrelated trade or business income tax provisions by providing insurance benefits through a 501(c)(9) trust. Manifest in the policy of the regulations under section 501(c)(9), as set forth in the preamble, is the taxation of organizations conducting activities amounting to a business of insurance, as distinguished from organizations legitimately formed as VEBAs. The "geographic locale" requirement was included within the regulations because it represents a membership trait that would help distinguish a legitimate tax-exempt employees' beneficiary association from one that is not entitled to exemption because of its similarity to an insurance business.

In general, multiple-employer organizations open to employers scattered over a state, several states, or the nation would have a weak bond between employees, and would be inclined to possess the attributes of an insurance business. On the other hand, an employees' beneficiary organization formed by employers within the geographic area of a county, a metropolitan area, a city, a town, or a community would generally lack any abusive degree of the attributes of an insurance business.

In some cases any objectionable degree of insurance attributes associated with multiple-employer VEBAs operating within a given state or contingent states may be mitigated where there is a unity among participants arising out of a strong commonality of interest in the operation of a single line of business with the state or contingent states. In this regard, a labor community engaged in the same line of business in the same state may sometimes maintain a close bond by reason of a common concern in the manner of the state's regulations over the community's affairs and, more generally, in the economic, social, and political conditions peculiar to that state. However, when an organization operates in more than one state, there must be something more than a thread of common interest in acquiring low-cost insurance through a VEBA. In the latter cases it would be difficult to find a bond among participants which would sufficiently negate the objectionable insurance attributes. Thus, ordinarily, where employers are spread over a geographic area falling within a state (but extending beyond the geographic area of a county, city or similar area), a determination of whether such area qualifies as a "geographic locale" would require a case-by-case examination. However, a case-by-case examination creates the heavy administrative burden of geographic areas of various shapes and sizes. In consideration of this burden and of the close bond exhibited among participants of many multiple-employer organizations which operate within a state, we believe that "geographic locale" may be viewed as including a geographic area falling within any given state.

Conversely, an organization that is operating nationally such as yours cannot reasonably be described as a geographic locale. Accordingly, your employers do not possess the required degree of affiliation under section 1.501(c)(9)-2(a)(1) of the regulations since we interpret that your employers are not located within the same "geographic locale".

Accordingly, based on all the facts and circumstances, we conclude that your trust and plan does not qualify for recognition of exemption from federal income tax under section 501(c)(9) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request

[REDACTED]

the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio EP/EO key district office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, EP/EO Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service  
Attn: [REDACTED] T:EO:RA:T:2, Rm. 6539  
1111 Constitution Ave, N.W.  
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) Garland A. Carter

Garland A. Carter  
Manager, Exempt Organizations  
Technical Group 2

cc: [REDACTED]

[REDACTED]

[REDACTED]